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TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
July 21, 2009**

**Present:** Commissioners Lythgoe, Weber and Kirsch; Mike Hoffman, County Planner; Dan Rapkoch and Tom Pankratz, NorthWestern Energy MSTI project; Joe Carter, Road/Solid Waste Supervisor, Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Ray Barnicoat, Heather Powers, Ben Sautter, Pat Rosin

**MINUTES**

Commissioner Weber moved to approve the minutes of June 23. Commissioner Kirsch seconded. The motion carried.

**CORRESPONDENCE**

The grant agreement for water quality testing in Jefferson County was presented for signature. Commissioner Lythgoe signed the documents.

The Commission received the Title I, II and III allocation form for the coming fiscal year. The same percentages will be used as last year.

**CALENDAR REVIEW**

7/23 Mediation - Helena - 9:00  
Southwest Juvenile Detention board - Galen - 1:00  
Fair Board - 7:00  
7/27 Budget meetings - 8:30 - 3:00  
7/28 Budget meetings - 8:30 - 11:30  
7/29 Budget meetings - 8:30 - 11:00

**COMMISSION REPORTS**

July 21, 2009 minutes.wpd

## INTERVIEWS

Commissioner Weber reported that he has been taking part in the interview process for the Deputy County Attorney. They should probably have a decision by the end of the week.

## SUBDIVISION REVIEW

### REQUEST FOR TIME EXTENSION OF PRELIMINARY PLAT APPROVAL – PINE MEADOWS MAJOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this major subdivision containing 17 lots ranging in size from 1.125 to 5.465 acres. The developer is requesting a one year time extension of the preliminary plat approval. Mike recommended that the Commission grant the time extension.

Commissioner Weber moved to grant the time extension. Commissioner Lythgoe seconded. The motion carried.

### REQUEST FOR DESIGN CHANGE ON PRELIMINARY PLAT AND SUBDIVISION IMPROVEMENTS AGREEMENT – VALLEY VIEW MINOR SUBDIVISION

Mike stated that due to a change in legislation, remainder tracts are no longer allowable. Because of this, what was to have been the remainder tract will be incorporated into lot A3. This doesn't change the design of the subdivision, but just changes the size of one lot.

Commissioner Weber moved to revise the preliminary plat approval of the Valley View minor subdivision to include increased acreage of lot A3. Commissioner Kirsch seconded. The motion carried.

## ITEMS FOR COMMISSIONERS ACTION OR REVIEW

### SIGN AGREEMENT FOR PROFESSIONAL SERVICES WITH TIMBERLINE COMMUNICATIONS, INC

Commissioner Lythgoe moved to sign the agreement between Jefferson County and Timberline Communications. Commissioner Weber seconded. The motion carried.

### APPOINT FIRE TRUSTEE

Bonnie Ramey, County Clerk and Recorder, forwarded the Commission an e-mail from the Basin Fire Trustee Board with a request to appoint a Trustee.

Commissioner Weber moved to replace Jason Norman with Katherine Elliot as a Basin Fire Trustee. Commissioner Kirsch seconded. The motion carried.

### SIGN HB G45 GRANT CONTRACT

Commissioner Lythgoe stated that this is the contract for the stimulus funds for the sewer upgrade on the south campus.

Commissioner Weber moved to have Commissioner Lythgoe sign the contract. Commissioner Kirsch seconded. The motion carried.

#### UPDATE ON MSTI PROJECT

Tom Pankratz and Dan Rapkoch came to give an update on the progress of the Mountain States Transmission Intertie (MSTI) project. They presented the Commission with print information and gave a PowerPoint presentation.

Tom stated that the application was found complete by the DEQ in December 2008, and the draft EIS will be published in late fall of 2009.

Commissioner Kirsch said that he has been told that this line could be no closer to an existing line than 500 feet, but has seen some much closer. When the first line came through, they were told that the corridor was being made large enough so that another line could come through. Tom said that the separation distance is greater than 500 feet, but a span's length – closer to 1500 feet. There is a very stringent criterion that is used for the separation distance of major lines. Commissioner Kirsch said that when the first line went in they were told that the corridor was being made wide enough to facilitate another line in the future. He feels that the current line is the best way to stay off of private property.

Commissioner Weber asked which agency promulgated the siting requirement. Tom said that it comes ultimately from the National Reliability Coordinating Council. New rules have come into play since the last line came through. Commissioner Kirsch asked if it is a law that federal lands must be used when possible. Tom said that there is a stipulation under the Montana Major Facility Siting Act that public lands are used as practicable.

#### DISCUSS AND DECIDE ON APPROVAL OF SOLID WASTE DISTRICT IMPLEMENTING CHARGE FOR BEETLE KILLS TREES AT TRANSFER SITES

Commissioner Lythgoe said that he had this put back on the agenda so that the Commission could reconsider this fee. It would be his suggestion that the Solid Waste district be allowed to charge the \$10 per cubic yard, with the caveat that people can choose to haul the waste to the Boulder or Whitehall site and add to the burn pile. As long as the woody waste isn't going into the dumpsters, there will be no charge. He noted that there are some that are already hauling the waste to Boulder. Commissioner Weber stated that the reason the Solid Waste board didn't go with that option is that it doesn't fully address the issue with the budget and the costs related to dealing with the woody waste. The board was trying to address that whole cost picture by this charge. Putting it on the ground and burning is going to be cheaper, he believes, than hauling it to City-County or hauling it over the hill to be burned. He thinks that Commissioner Lythgoe has addressed some of the cost by suggesting the fee as he has. His problem is that the Solid Waste board spent a lot of time discussing and working on this problem, and this doesn't address the increase in burning and the costs for hauling ash and extra space requirements for multiple piles if this keeps on progressing.

Commissioner Lythgoe said that he thinks that if they give people the option they can choose to pay the fee or haul it to Boulder. Also, if he remembers correctly, Commissioner Weber stated at the last meeting that he thought the Solid Waste budget could handle the added costs of tipping

that additional ash. Commissioner Weber said that it could be possible, but he still doesn't think that it is the best option. When you look at the whole picture, that is why the board discarded this as an option. The proposal that the Solid Waste board presented to the Commission addressed the problem more fully than this would.

Commissioner Kirsch said that if they look at the big picture – say he's a guy from Montana City with a load of woody waste. He can either put it in the green box and pay a fee or he can drive to Boulder and dump it. If I am charged the same fee in Boulder, I'm not going to drive to Boulder. Commissioner Weber said that the long range problem is that we will incentivize people to bring the waste over the hill and we will incentivize them to put it in our pile and we will incentivize them to bring us more and more here and we will burn more and more and our ash pile will be bigger and the costs to the district will actually go up because we have to burn it and because we have to push it and because we have to haul that ash. So we have incentivized everyone to bring us more and it will be harder for us to recoup those costs, because they are making our costs go up with no revenue generation from it. That is why in the long run he doesn't support that idea, because the district will not be able to maintain a higher level of cost and a lower level of revenue. The only way that this fixes the budget of the Solid Waste board is if the revenues balance the costs. If we incentivize them to raise our costs without incentivizing them to raise our revenue, we will not fix the budgetary problem that the Solid Waste board is facing. Commissioner Lythgoe asks if it makes sense that people in Boulder and Whitehall, that have woody waste are able to dump it on the ground, that they are charged equally with people from the area where there really is a problem. Commissioner Weber said that if they use the service, it makes sense to him. If they use the service, and they aren't forced to, then the Solid Waste board has the responsibility to run as business. This isn't a public good tax, it can't be spread around like the schools. They have to balance their expenses and revenues and run the district like a business.

Commissioner Lythgoe said that one fear he has is that if they charge everyone without the option of hauling elsewhere, they are going to be burning piles, and big piles. This happened just last week; someone decided to burn a very large pile and it almost got away from them. DNRC kept it contained and had to watch it for several days.

Commissioner Weber said that he shares these concerns, but the Solid Waste board has to run like a business. It has to balance its costs and revenues and come out clean. He doesn't feel that the Commission has the authority to cover the county's fire liability with the Solid Waste board's budget. If we as a County want to say that we will give them additional funds in their budget to cover these costs, then that would be good. However, he doesn't believe that the Solid Waste can handle the financial pressure. If we incentivize people to limit their fire exposure by hauling it to our site and burning it, he doesn't believe that the Solid Waste board can ultimately bear that cost. If they as a County want to give them the money for them to help us keep people from burning themselves down, then we would be doing what we, as Commissioners, are supposed to be doing in regards to health, safety and welfare. Commissioner Lythgoe stated that it is a health, safety and welfare issue, and we can ask the Solid Waste board to do what they can, and if they are not able to do this within their budget, they may need to raise fees countywide to deal with the shortfall.

Commissioner Kirsch stated that if someone takes 10 logs out there and burns them, there will be a lot less ash to haul than if they had to haul the 10 logs. What Commissioner Weber is saying

has some merit, but once the logs are burned they have a lot less volume. He asked why the Solid Waste board doesn't consider a lesser and more realistic charge, rather than the \$10. This would be an incentive for people on the north end to bring the woody waste over here; otherwise, people will be dumping over there and the Solid Waste board will be paying high dollars to haul. If they compare the cost of hauling the waste versus the ash, it would be much less. Because of the new Forest Service law, people are going to be looking for wood wherever they can find it. Commissioner Weber said that this would appear to be true until you look at the budget and see that they are still hauling ash and what it costs and the rising price. He noted that Jefferson County allows "up for grabs" and are the only one in the state, probably the country, that allows this. We are a shining star of recycling in that regard. Even with this the cost is going up, the amount of ash is going up and the space is still going down. From the Solid Waste Department standpoint, this was the only feasible option to still provide the service. This was the best way to provide the service and balance the budget. They didn't cut services, which was considered, and they don't want people to be starting fires, but as a board, they decided that this was the best way to provide service and balance the budget. He would support the County stepping in and paying for the common good and if this woody waste is hauled to Boulder and burned, the County will cover the costs so that the Solid Waste District can balance their budget without this fee. The Solid Waste board members spent years trying to figure out the best way possible to do this, to meet their responsibilities to the budget, to meet their responsibility as an enterprise fund. He doesn't feel that they can take all of that work and discard it while offering this as a better option.

Commissioner Lythgoe stated that health, safety, welfare is a huge issue with the Commission and should be for the Solid Waste district also. He is hearing budget, budget, budget, and that seems to be their only consideration. If they require that people pay this \$10 fee, there are going to be people who are going to burn this waste wherever, without necessary precautions and we will have a much more serious fire issue than we have had before. He thinks that this is not just a Commission issue, it is also a Solid Waste issue; and the cost of dealing with the issue is not just a Commission issue but also a Solid Waste issue. Because of this, he doesn't necessarily think that it is up to the Commission to bail out the Solid Waste District as it relates to this issue. If, in fact, Solid Waste fees have to go up county-wide to deal with some of this, because it is a health, safety, welfare issue, that might be what has to happen.

Commissioner Weber said that he understands that this is Commissioner Lythgoe's preferred alternative, but the Solid Waste board has been discussing this for some time and this isn't their preferred alternative.

Commissioner Kirsch asked what the budget shortfall is. Commissioner Weber said that it is running about \$50,000/year.

Ray Barnicoat, former solid waste board member, said that both the board and the solid waste staff put in a considerable amount of time in dealing with this issue. This option seemed to be the temporary fix, to help us work forward while other options are explored. One option is a fee increase, but this would require reorganization, due to new legislation. Another option is that a local wood products business taking woody waste to chip, for a fee. The solid waste board went through the public process and they didn't get a lot of input and just three or so people that expressed opposition. What the board is looking at now is a temporary fix until something more permanent can be developed.

Commissioner Kirsch said that last year fuel was over \$4.00/gallon and is considerable lower

now. He asked if that has made a difference. Ray answered that it didn't make a considerable difference.

Commissioner Kirsch asked Joe if he monitors the landfills. Joe said that he does.

Commissioner Kirsch asked how many green boxes of ash are hauled on a monthly basis. Joe said that he can't give an answer at this time; they are getting in a lot more trees, and therefore ash, than they have in the past. Also, when the trees are burned, they don't burn down totally, so there are still stumps or large pieces of wood that have some weight to them; it isn't pure ash.

The other thing about bringing waste to Boulder, the Boulder site is only open three days a week, whereas the Montana City site is open six days a week. They would either have to open the Boulder site another day or two, and would have to add another attendant regardless.

Commissioner Kirsch asked percentage of what is burned is yard waste.

Pat Rosin, driver for the Solid Waste District, said that probably 10% is yard waste – grass clippings, etc. Montana City is pretty much all brush. If the solid waste fee is increased, that increase will be across the board. He lives in a trailer court, and doesn't have any trees; in contrast, there is someone who is hauling in 10 flat bed loads a day of woody waste; he would essentially be paying to clear-cut that landowner's property.

Joe added that if they start generating more of a pile in Boulder, it takes a lot more effort for the trucker drivers to break away from their regular duties of emptying boxes to push up the brush in the piles. He noted that the last couple piles have gotten pretty huge, and he is surprised that DEQ didn't make them separate them. It might get to the point where they have to make two or three piles.

Heather Powers, office manager for the Solid Waste District, said that in answer to the question of the monthly haul on ash, they don't currently have one. They only burn twice a year. She doesn't feel that they can pick and choose what fees to implement where. Commissioner Weber said that he thinks that they can justify through code, the charge for putting it into our boxes.

Ben Sautter, solid waste board member, answered several questions raised. Ben stated that they have a  $\frac{3}{4}$  million dollar budget with a fuel line item of \$30,000. If they were to save half of that, \$15,000 is a lot of money, but small compared to the total budget. The mission statement does include health, safety and welfare, but sometime there are budget constraints that can affect what can be done. The solid waste assessment is for household refuse, and does not include woody waste, tires, construction waste, etc. This is an opportunity to level the playing field somewhat; those who use, pay. The Solid Waste board spent a lot of time working through this issue and came to the Commission with a recommendation. He feels that it is pretty disrespectful to disregard all of the work put in by a group of volunteers. If they don't agree, he feels that it is up to the Commission to come up with an alternative. People in the Montana City area weren't even given the option to have a burn pile.

Commissioner Lythgoe said that they did look into the option of having a burn site in the Montana city area, but nothing suitable could be found. Ben said that he is unaware that this had even been discussed.

Commissioner Lythgoe said that he would really like to see something happen so that it can be dealt with without having to go back out to the public. He appreciates all the work that has been

done, and knows that they have spent a lot of time on this.

Commissioner Lythgoe moved to approve the \$10 per cubic yard charge as recommended by the solid waste board, but that all residents of Jefferson County who are dealing with woody waste have the option of hauling to Boulder or Whitehall and not having to pay the fee. Commissioner Kirsch seconded. Commissioner Weber said that he believes that they need to have a public hearing followed by a resolution. They also need a resolution to implement the tire fee. The motion carried, with Commissioner Lythgoe and Commissioner Kirsch voting aye and Commissioner Weber voting nay.

#### CLAIMS APPROVAL

A list of claims was presented for approval. All claims were approved as submitted. There was no discussion.

#### **MEETING ADJOURNED**

#### **ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**KEN WEBER, COMMISSIONER**

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**DAVE KIRSCH, COMMISSIONER**